

JON D. MEER (State Bar No. 144389)  
jmeer@seyfarth.com  
SIMON L. YANG (State Bar No. 260286)  
syang@seyfarth.com  
**SEYFARTH SHAW LLP**  
2029 Century Park East, 35th Floor  
Los Angeles, California 90067-3021  
Telephone: (310) 277-7200  
Facsimile: (310) 201-5219

LORIE E. ALMON (*admitted pro hac vice*)  
lalmon@seyfarth.com

**SEYFARTH SHAW LLP**  
620 Eighth Avenue, 32nd Floor  
New York, New York 10018  
Telephone: (212) 218-5500  
Facsimile: (212) 218-5526

Attorneys for Defendant  
THE PRUDENTIAL INSURANCE  
COMPANY OF AMERICA, INC.

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

DOMINIQUE OSBORNE, on her own behalf on behalf of a class of similarly situated persons pursuant to F.R.C.P. 23 and 23 U.S.C. § 216, and on behalf of the General Public.

#### **Plaintiffs.**

V.

**THE PRUDENTIAL INSURANCE  
COMPANY OF AMERICA, a New  
Jersey Corporation,**

Defendant

Case No. 2:10-CV-02465 JFW (CWx)

*The Hon. John F. Walter*

**DECLARATION OF JON D. MEER  
IN SUPPORT OF DEFENDANT  
PRUDENTIAL INSURANCE  
COMPANY OF AMERICA, INC.'S  
MOTION FOR SUMMARY  
JUDGMENT**

Date: December 6, 2010  
Time: 1:30 p.m.  
Courtroom: 16

Complaint Filed: April 5, 2010  
Discovery Cutoff: March 1, 2011  
Motion Cutoff: March 28, 2011  
Pre-Trial Conf.: May 6, 2011  
Trial Date: May 24, 2011

1 I, JON D. MEER, declare and state as follows:

2 1. I have personal knowledge of the facts contained in this declaration,  
3 and if called as a witness, I could and would testify as to their accuracy.

4 2. I am an attorney licensed to practice law in the State of California, and  
5 I am admitted to appear before this Court. I am a partner in the law firm of  
6 Seyfarth Shaw LLP in Los Angeles, California, and I am the attorney with primary  
7 responsibility for representing Prudential Insurance Company of America, Inc.  
8 (“Prudential” or “Defendant”) in the above-captioned matter, filed by Plaintiff  
9 Dominique Osborne (“Plaintiff”). True and correct copies of all of the pleadings,  
10 records and transcripts in this matter are maintained in my office, in the ordinary  
11 course of business, under my direction and control.

12 3. I took the deposition of Plaintiff on July 6, 2009. Thereafter, I  
13 ordered an original, certified copy and mini-transcript of the deposition from the  
14 certified shorthand reporter.

15 4. I prepared Defendant’s Motion for Summary Judgment based on  
16 Plaintiff’s deposition testimony. I have underlined the deposition testimony cited  
17 in the motion. Excerpts of Plaintiff’s deposition testimony and exhibits cited in  
18 Defendant’s motion are attached hereto as Exhibit “A” and incorporated herein by  
19 this reference.

20 5. A true and correct copy of the full single-sided mini-transcript of  
21 Plaintiff’s deposition will be submitted to Chambers, along with the courtesy  
22 copies of Defendant’s moving papers.

23 I declare under penalty of perjury under the laws of the State of California  
24 and the United States of America that the foregoing is true and correct based on my  
25 own personal knowledge.

26 Executed this 8th day of November, 2010 in Los Angeles, California.

27   
28

JON D. MEER

# EXHIBIT A

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DOMINIQUE OSBORNE, on her own )  
behalf and on behalf of a )  
class of similarly situated )  
persons pursuant to F.R.C.P. )  
23 and 23 U.S.C. 216, and on )  
behalf of the General Public, )  
                                    )  
                                    )  
Plaintiffs,                     )  
                                    )  
vs.                              ) No. CV10-2465 JFW (CWx)  
                                    )  
THE PRUDENTIAL INSURANCE )  
COMPANY OF AMERICA, a New )  
Jersey Corporation,            )  
                                    )  
Defendant.                     )  
\_\_\_\_\_ )

VIDEOTAPED DEPOSITION OF  
DOMINIQUE OSBORNE  
Los Angeles, California  
Tuesday, July 6, 2010

Reported by:  
ANDREA M. RINKER  
CSR No. 13437  
JOB No. 9316R

Dominique Osborne vs. The Prudential Insurance Company of America  
Witness: Dominique Osborne

Date Taken: 7/6/2010

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DOMINIQUE OSBORNE, on her own )  
behalf and on behalf of a )  
class of similarly situated )  
persons pursuant to F.R.C.P. )  
23 and 23 U.S.C. 216, and on )  
behalf of the General Public, )  
Plaintiffs, )  
vs. ) No. CV10-2465 JFW (CWx)  
THE PRUDENTIAL INSURANCE )  
COMPANY OF AMERICA, a New )  
Jersey Corporation, )  
Defendant. )  
\_\_\_\_\_  
)

Deposition of DOMINIQUE OSBORNE, taken  
on behalf of Defendants, at 2029 Century  
Park East, 35th Floor, Los Angeles,  
California, beginning at 10:47 a.m. and  
ending at 6:42 p.m. on Tuesday, July 6,  
2010, before ANDREA M. RINKER, Certified  
Shorthand Reporter No. 13437.

Exhibit A, Page 3

Dominique Osborne vs. The Prudential Insurance Company of America  
Witness: Dominique Osborne

Date Taken: 7/6/2010

1 APPEARANCES:

2

3 For Plaintiffs:

4

TEEPLE HALL LLP  
BY: JASON N. BLACK  
Attorney at Law  
9225 Towne Centre Drive, Suite 500  
San Diego, California 92121  
(858) 622-7878

5

6 For Defendant:

7

SEYFARTH SHAW  
BY: JON D. MEER  
BY: SIMON L. YANG  
Attorneys at Law  
2029 Century Park East, 35th Floor  
Los Angeles, California 90067  
(310) 277-7200

8

9 Videographer:

10

CHUCK PERRY  
M&M COURT REPORTERS  
501 North Golden Circle Drive, Suite 106  
Santa Ana, California 92705  
(714) 972-2300

11

12 Also Present:

13

14 RICO LAGATTULA

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Exhibit A, Page 4

Dominique Osborne vs. The Prudential Insurance Company of America  
Witness: Dominique Osborne

Date Taken: 7/6/2010

1 understand that?

2 A Yes.

3 Q Have you taken any medication or alcohol or  
4 anything that might affect your ability to concentrate  
10:53 5 and provide your most truthful, most accurate testimony?

6 A No, I haven't.

7 Q Do you know of any reason why you might be  
8 physically or mentally unable to concentrate and provide  
9 your best and most accurate and most truthful testimony?

10:54 10 A No.

11 Q You were employed by Prudential Insurance  
12 Company in 2008 and 2009, right?

13 MR. BLACK: Objection. Assumes facts not in  
14 evidence.

10:54 15 BY MR. MEER:

16 Q Please answer.

17 MR. BLACK: You can answer.

18 THE WITNESS: Yes. That's correct.

19 BY MR. MEER:

10:54 20 Q You started work on August 21st, 2008 and your  
21 employment ended on -- to July 17th, 2009, correct?

22 A I want to say it was before August 21st, but it  
23 was in August.

24 Q August 2008, right?

10:54 25 A Yes. That's correct.

Exhibit A, Page 5

Dominique Osborne vs. The Prudential Insurance Company of America  
Witness: Dominique Osborne

Date Taken: 7/6/2010

1 Q And your employment ended on July 17th, 2009,  
2 right?

3 A I'm not sure of the exact date, but I know it  
4 was in July.

10:55 5 Q And during the time that you were working for  
6 Prudential, you worked at their Agoura Hills location,  
7 correct?

8 A Yes. That's correct.

9 Q You never worked at any other location of the  
10:55 10 company, right?

11 A No, I didn't.

12 Q And when you performed the work that you  
13 performed at Prudential, you worked inside the Agoura  
14 Hills office, right?

10:55 15 A Yes. That's right.

16 Q You didn't have an arrangement where you were  
17 allowed to work at home or from some offsite location,  
18 right?

19 A No, I didn't.

10:56 20 (Interruption in the proceedings.)

21 BY MR. MEER:

22 Q And the Agoura Hills location where you worked  
23 was part of a suburban office park setting, right?

24 A Yes. That's correct.

10:56 25 Q And to start your workday, you parked at the

Exhibit A, Page 6

1 BY MR. MEER:

2 Q When you received training working at  
3 Prudential, you were told what the length of your regular  
4 shift would be, right?

11:07 5 A Yes.

6 MR. BLACK: Same objection.

7 THE WITNESS: Yes.

8 BY MR. MEER:

9 Q And the shift when you were working at the  
11:07 10 company began at 8:00 a.m. and ended at 4:00 p.m.,  
11 correct?

12 MR. BLACK: Objection. Assumes facts not in  
13 evidence.

14 THE WITNESS: Yes.

11:07 15 BY MR. MEER:

16 Q And that time from 8:00 a.m. to 4:00 p.m. was  
17 automatically recorded in the company's electronic  
18 records without you having to record it on your own time  
19 card, right?

11:08 20 A I'm sorry. Can you repeat that again?

21 Q Sure. The shift starting and stopping time --  
22 8:00 a.m. to 4:00 p.m. -- that was automatically recorded  
23 by the company without you having to punch a time clock  
24 or fill out a time card, right?

11:08 25 A Yes. That's correct.

Exhibit A, Page 7

1 Q And as part of your regular shift from 8:00 a.m.  
2 to 4:00 p.m., you received a 30-minute lunch break,  
3 correct?

4 MR. BLACK: Objection. Vague and ambiguous as  
11:08 5 to "received."

6 THE WITNESS: Yes. That's correct.

7 BY MR. MEER:

8 Q You took 30 minutes for lunch every day, right?

9 MR. BLACK: Objection. Vague and ambiguous.  
11:08 10 Overbroad. Vague as to time.

11 THE WITNESS: Yes. That's correct.

12 BY MR. MEER:

13 Q And so as part of your regular work shift from  
14 8:00 a.m. to 4:00 p.m., you had 30 minutes of an unpaid  
11:08 15 lunch and the remaining seven and a half hours were paid,  
16 correct?

17 MR. BLACK: Objection. Vague and ambiguous as  
18 to "paid." Overbroad. Compound.

19 Do you understand the question?

11:09 20 THE WITNESS: Yes, yes. Yes, that's correct.

21 BY MR. MEER:

22 Q And also during your regular shift, you received  
23 breaks, correct?

24 MR. BLACK: Objection. Vague and ambiguous as  
11:09 25 to "breaks." Overbroad.

1                   THE WITNESS: Yes. That's correct.

2 BY MR. MEER:

3                   Q There were two ten-minute breaks that you were  
4 allowed to take every day, correct?

11:09 5                   A Yes. That's correct.

6                   Q And there was a third block of ten minutes where  
7 you were allowed to do whatever you wanted and not have  
8 to perform work activities, correct?

9                   MR. BLACK: Objection. Assumes facts not in  
11:09 10 evidence. Vague and ambiguous. Leading. Overbroad.  
11 Compound.

12                   THE WITNESS: Yes, if you needed, for example,  
13 to use the rest room.

14 BY MR. MEER:

11:09 15                   Q And so you understood during the time that you  
16 worked at Prudential you were responsible for seven hours  
17 of performing work each day, you had three breaks  
18 totalling 30 minutes and one lunch period totalling  
19 30 minutes, correct?

11:10 20                   MR. BLACK: Objection. Calls for a legal  
21 conclusion. Misstates prior testimony. Vague and  
22 ambiguous.

23                   THE WITNESS: Well, really -- it wasn't fully an  
24 hour unless you did have to use the bathroom. So really,  
11:10 25 I guess with the -- the ten minutes extra or what have

Exhibit A, Page 9

1       you -- I mean, it was just used if you needed to use it,  
2       but not always every single day.

3       BY MR. MEER:

4           Q     No one ever prohibited you from taking three  
11:10 5       ten-minute breaks, right?

6           MR. BLACK: Objection. Misstates prior  
7       testimony. Assumes facts not in evidence. Vague and  
8       ambiguous as to "three ten-minute breaks."

9           THE WITNESS: We were never offered like it was  
11:11 10      offered and put out there three minute -- ten-minute  
11       breaks. That wasn't something I did. If you had to use  
12       the bathroom you just use the bathroom. But  
13       realistically, I wasn't always in the bathroom for ten  
14       minutes each day.

11:11 15      BY MR. MEER:

16           Q     You were told that you would have two ten-minute  
17       breaks during each workday, correct?

18           A     Yes. That's correct.

19           Q     And you were always allowed to take two ten-  
11:11 20      minute breaks each workday, right?

21           A     Yes, I was.

22           Q     And the third ten-minute break was something  
23       that you took on an ad hoc basis if you needed to use the  
24       rest room or get a cup of coffee or leave your  
11:11 25      workstation, correct?

Exhibit A, Page 10

1 or not they did, you can answer the question. But in a  
2 deposition, only what you know of your own personal  
3 knowledge -- what you saw, heard, touched, smelled.

4 So do you know what type of training other  
11:20 5 employees received at your call center location about  
6 when to arrive at work and when to leave?

7 A Only from what I heard them say. I didn't  
8 witness them being instructed by management of when to  
9 come in, only from what they may have told me personally.

11:21 10 Q Did any employees at the call center where you  
11 worked tell you that they had received a written policy  
12 about when to arrive at work and when to leave work?

13 A No.

14 Q And at the call center where you worked, there  
11:21 15 were approximately 14 hourly employees?

16 MR. BLACK: Objection. Vague and ambiguous.  
17 Vague as to "hourly employees." Calls for a legal  
18 opinion.

19 THE WITNESS: Well, there was more than 14  
11:21 20 employees that worked in the call center. There was  
21 other people that did different things that were not  
22 all -- not everyone was on the phone.

23 BY MR. MEER:

24 Q With respect to the call center where you  
11:21 25 worked, how many employees can you estimate worked there

Exhibit A, Page 11

1 BY MR. MEER:

2 Q You did your best to keep an accurate log,  
3 right?

4 MR. BLACK: Objection. Misstates prior  
11:25 5 testimony.

6 THE WITNESS: Yes.

7 BY MR. MEER:

8 Q And nobody told you to record your time  
9 inaccurately, right?

11:25 10 A Well, sometimes people would say you may have to  
11 go ahead and put down something. We would, say, like  
12 fudge the numbers on there because you may -- because it  
13 was almost impossible to keep track of what you did for a  
14 whole seven hours or what have you being there all day.

11:26 15 So sometimes you would have to go ahead and be -- think  
16 about like okay, well, I got 15 minutes I got to account  
17 for and really didn't -- you couldn't remember what to  
18 put there. So you may have to go ahead -- it was kind of  
19 like rob Peter to pay Paul to go ahead and -- to put  
11:26 20 everything in the system -- in the access system.

21 Q But when you recorded the total amount of time  
22 you worked on a particular day --

23 A Mm-hmm.

24 Q -- that was always accurate, correct?

11:26 25 MR. BLACK: Objection. Calls for a legal

Exhibit A, Page 12

1 conclusion. Vague and ambiguous.

2 THE WITNESS: I would say yes.

3 BY MR. MEER:

4 Q And from what you observed from other employees  
11:27 5 at the call center location in Agoura Hills, they also  
6 made their best efforts to accurately record the amount  
7 of time that they spent on various work activities,  
8 right?

9 MR. BLACK: Objection. Calls for speculation.

11:27 10 Vague and ambiguous as to record time.

11 THE WITNESS: I would say yes.

12 BY MR. MEER:

13 Q And you knew that it was a policy of the call  
14 center where you worked to accurately record the amount  
11:27 15 of time that you worked each day, right?

16 MR. BLACK: Objection. Calls for a legal  
17 conclusion. Misstates prior testimony. Vague and  
18 ambiguous. Confusing. Intentionally confusing.  
19 Compound.

11:27 20 THE WITNESS: Well, when I first started at  
21 Prudential, I didn't even use the system that you're  
22 describing, the access system until probably like four or  
23 five months after being there. So I -- so no -- so when  
24 we started doing it and getting used to it, it was --  
11:28 25 because it was a very tedious -- not a user-friendly

Exhibit A, Page 13

1 Q And the overtime that was requested was for  
2 people at your level who had already been trained, right?

3 A I -- I was never offered overtime even after  
4 training because they told me I wasn't -- wasn't at the  
11:42 5 production level that they needed to get the claims out.

6 Q You didn't want to work overtime as well,  
7 correct?

8 A Yes. That's correct.

9 Q So if overtime had been offered to you and it  
11:42 10 was voluntary, you would have declined?

11 MR. BLACK: Objection. Calls for speculation.

12 THE WITNESS: Yes. That's correct. I would  
13 have declined.

14 BY MR. MEER:

11:42 15 Q You saw that other people at the call center did  
16 work overtime, correct?

17 A Yes. That's correct.

18 Q And that for most of the weeks when you worked  
19 at the Agoura Hills call center, the majority of  
11:42 20 employees from what you observed worked some overtime,  
21 correct?

22 MR. BLACK: Objection. Calls for a legal  
23 conclusion.

24 THE WITNESS: Yes. That's correct.

11:43 25 BY MR. MEER:

Exhibit A, Page 14

1 handling calls, right?

2 A Yes.

3 Q And some people were assigned to the activity of  
4 handling claims, correct?

11:45 5 A Well, yes. There was people that -- that  
6 strictly were just doing claims, but you can also be on  
7 the phone working because we were always having to  
8 multi-task and work on claims as well.

9 Q I understand.

11:46 10 A Okay.

11 Q But there were some people who didn't wear a  
12 headset during some part of the day and they only worked  
13 on claims and didn't take any calls, right?

14 MR. BLACK: Objection. Misstates prior  
11:46 15 testimony. Vague and ambiguous and misleading.

16 THE WITNESS: Yes. That's correct.

17 BY MR. MEER:

18 Q And there were some people who also during some  
19 part of the day handled administrative issues, paperwork,  
11:46 20 correspondence, things like that?

21 MR. BLACK: Objection. Assumes facts not in  
22 evidence.

23 THE WITNESS: Yes. That's correct.

24 BY MR. MEER:

11:46 25 Q And these activities -- just to use shorthand so

Exhibit A, Page 15

1       that we're both talking about the same thing, I'm going  
2       to refer to as "handling calls," and you understand those  
3       are the people who are wearing headsets and either  
4       talking to callers that come in or waiting for callers  
11:46 5       that come in. Is that a fair description of it?

6       A     Yes.

7       Q     Okay. And people who are handling claims are  
8       not wearing a headset, they are handling the claims  
9       process and matching up the claims with the proper  
11:47 10      payments to be paid, correct?

11           MR. BLACK: Objection. Misstates prior  
12           testimony. Vague and ambiguous and misleading.

13           THE WITNESS: I would have to disagree because  
14       if we got busy all of a sudden, everybody who was doing  
15       claims -- you could keep your headset on all day because  
16       it was unpredictable because of being a call center. So  
17       they could be required to jump on the phones in the  
18       middle of doing a claim. So everyone was -- the job that  
19       was trained to do claims was also trained to be on the  
11:47 20      phone at any moment's notice.

21           BY MR. MEER:

22       Q     I understand that.

23       A     Okay.

24       Q     I just want to --

11:47 25      A     Okay.

Exhibit A, Page 16

1           Q    Let me describe it like this. If I were to take  
2       a snapshot of the call center -- if I were to walk in the  
3       call center at 10:00 a.m. while you were working, I would  
4       see some people with headsets on answering calls, right?

11:48 5           MR. BLACK: Objection. Improper hypothetical.  
6       Calls for speculation.

7           THE WITNESS: Yes. That's right.

8       BY MR. MEER:

9           Q    And I would see some people without headsets on  
11:48 10      handling claims, right?

11           MR. BLACK: Same objection.

12           THE WITNESS: Yes. That's right.

13       BY MR. MEER:

14           Q    And I would see some people without headsets on  
11:48 15      handling correspondence or other paperwork, right?

16           MR. BLACK: Same objection.

17           THE WITNESS: Yes. That's right.

18       BY MR. MEER:

19           Q    And those three activities were in a constant  
11:48 20      state of change throughout the day depending on call  
21      volume or claim volume, correct?

22           A    Yes. That's correct.

23           Q    So if the call volume was particularly high,  
24      then more people were handling calls than if the call  
11:48 25      volume was particularly low, right?

Exhibit A, Page 17

1 A Yes. That's right.

2 Q People moved from handling calls to handling  
3 claims or to handling correspondence throughout the same  
4 day, right?

11:49 5 A Yes. That's right.

6 Q There was a weekly schedule that was put out  
7 that stated what activities somebody started on on a  
8 particular day, correct?

9 A Yes. That's correct.

11:49 10 Q So when you began a workday, you knew where you  
11 were starting and what activity, right?

12 A You did, but it wasn't -- it wasn't in black and  
13 white. There was a lot of gray.

14 Q There was an attempt to put people in a starting  
15 activity and that, from what you observed, changed  
16 virtually every day, right?

17 MR. BLACK: Objection. Misstates prior  
18 testimony. Vague and ambiguous.

19 THE WITNESS: Yes. It could realistically  
20 change because people could get sick and that could  
21 change everything with it being a small call center.

22 BY MR. MEER:

23 Q Or when some people were on their lunch who were  
24 on calls, other people might have to cover calls for  
11:50 25 them, right?

Exhibit A, Page 18

1           A    No, I didn't, because of the pressure -- the  
2         pressure and just like the -- the environment. It was  
3         like being bullied to where you were afraid to really  
4         ask, "Well, can I get paid if I leave at 4:07?" Because  
12:15 5         it came a point where I used to complain, gosh, I never  
6         get out of here on time. Even when I have a goal set and  
7         I'm going to start wrapping up my stuff, I would have  
8         other work thrown my way or -- and because I sat close to  
9         two of the supervisors, it was like they were always  
12:15 10        asking me things at the end of the day. I have claims, I  
11         have QAC coming to throw things at me. So it was like I  
12         was bombarded with things at the end. Even if I wanted  
13         to prepare to leave, I really didn't have that option  
14         unless I was just going to be like look, tell -- tell  
12:15 15        management and tell everyone this will have to wait until  
16         tomorrow.

17           Q    I understand that you felt as if you needed to  
18         stay. But on those days when you did stay past 4:00 to  
19         handle claims or answer questions from quality review,  
12:16 20       did you ever say to a supervisor or manager, you know, "I  
21         stayed beyond my shift ending time today, how should I  
22         record or am I allowed to record the extra time worked?"

23           A    No. No, I didn't go ahead and push the subject.

24           Q    Well, not push the subject. You never even  
12:16 25        raised it, right?

Exhibit A, Page 19

1                   MR. BLACK: I'm going to object that that  
2 assumes facts not in evidence.

3                   THE WITNESS: Yes.

4                   BY MR. MEER:

01:27 5           Q     Do you have any reason to believe that this  
6                   Exhibit 1, these building access reports are not  
7                   accurate?

8                   MR. BLACK: Objection. Calls for a legal  
9                   conclusion. Calls for an expert opinion. Lacks  
01:28 10           foundation.

11                  THE WITNESS: I can never say 100 percent  
12                  accurate considering that if other people use my card or  
13                  I use somebody's else's card. But I was -- like we were  
14                  discussing earlier, I would say anywhere from 85 to  
01:28 15           90 percent -- these records would most likely be 85 to  
16                  90 percent accurate.

17                  BY MR. MEER:

18                  Q     Okay. If you were to look through them, would  
19                  you be able to spot specific days that you think are not  
01:28 20           accurate?

21                  A     No. No. Realistically, I don't know who could  
22                  do that. I know I can't, so no. I wouldn't be able to  
23                  say which days are not accurate.

24                  Q     So when we look through these building access  
01:29 25           records, if there is a day when you think that can't be

Exhibit A, Page 20

1 would have to say I can't 100 percent agree with the  
2 times. I -- I -- I mean, because I don't have anything  
3 that shows -- showed me that -- I mean -- I mean, I can  
4 only trust what these reports say, but I don't know how  
01:30 5 accurate they are. I don't know what the time was when I  
6 badge in. There wasn't a clock there. So I don't know.  
7 It could be off by five minutes or it could be -- I mean,  
8 it could be later or earlier. I -- I don't know that.

9 BY MR. MEER:

01:30 10 Q Did you ever keep any separate set of records on  
11 your own showing the times that you arrived at work?

12 A No, I didn't.

13 Q Okay. So we have these records.

14 A Mm-hmm.

01:31 15 Q You don't have any separate records that may  
16 show different times?

17 A No, I don't. I just know that, you know, the  
18 times that I roughly got to work.

19 Q As I understand your lawsuit, you're claiming  
01:31 20 that you were required to come in 10 minutes before your  
21 scheduled shift started at 8:00 a.m.; is that right?

22 MR. BLACK: Objection. The document speaks for  
23 itself.

24 THE WITNESS: Anywhere from 10 to 15 minutes  
01:31 25 early, if possible.

Exhibit A, Page 21

1 BY MR. MEER:

2 Q Looking at these records, I'll represent to you  
3 that on all but four days you came in less than 10  
4 minutes before your shift started. Does that seem  
01:31 5 accurate to you?

6 MR. BLACK: Objection. Lacks foundation. Calls  
7 for speculation. Assumes facts not in evidence.

8 THE WITNESS: It really would be speculation  
9 because I don't remember exactly. I just know sometimes  
01:32 10 I got there 5 minutes until, sometimes 20 minutes. The  
11 times varies.

12 BY MR. MEER:

13 Q On some days you got to the office at only a  
14 couple of minutes before your shift started, correct?

01:32 15 MR. BLACK: Objection. Assumes facts not in  
16 evidence. Misstates prior testimony. Lacks foundation.

17 THE WITNESS: Yes. That's correct.

18 BY MR. MEER:

19 Q And on some days you got to the office after  
01:32 20 your shift started, correct?

21 MR. BLACK: Objection. Also vague and ambiguous  
22 as to "office."

23 THE WITNESS: Yes. Yes. That could happen as  
24 well.

01:32 25 BY MR. MEER:

Exhibit A, Page 22

1 Q And on some days, you got to the office exactly  
2 at the time that your shift started, correct?

3 A Yes. That's correct.

4 Q You were never given any written discipline for  
01:32 5 arriving to work too late, correct?

6 A No, I wasn't.

7 MR. BLACK: Objection. Vague and ambiguous as  
8 to "late."

9 THE WITNESS: No, I wasn't.

01:33 10 BY MR. MEER:

11 Q You were never given any sort of discipline  
12 about the time you arrived to the office, correct?

13 A No, nothing written. It was just told verbally.

14 Q And although your complaint says that you were  
01:33 15 required to be at your office 10 to 15 minutes prior to  
16 8:00 a.m., on most days you first arrived at the office 4  
17 or 5 minutes before 8:00 a.m., correct?

18 MR. BLACK: Objection. Lacks foundation.

19 Document speaks for itself. Improper hypothetical.

01:33 20 THE WITNESS: The policy -- Prudential's  
21 policies were stressed to me by my supervisor to try to  
22 get there 10 to 15 minutes early, especially days I was  
23 going to be on the phone.

24 BY MR. MEER:

01:34 25 Q But despite your supervisor telling you to try

Exhibit A, Page 23

1 to be at work 10 to 15 minutes early, most of the time  
2 you were only 4 or 5 minutes early, correct?

3 MR. BLACK: Objection. Asked and answered.

4 Lacks foundation. Misstates prior testimony. Documents  
01:34 5 speak for themselves.

6 THE WITNESS: My intention was always to try to  
7 get there as soon as I could to try to get within that  
8 time frame. Realistically I wasn't able to because I  
9 have children that I have to drop off. My -- my  
01:34 10 daughters, I drop them off at daycare at the time. I  
11 drop my son off at school. It was always in my best  
12 interest to try and do what the company wanted me to do,  
13 but not always did I realistically obtain that goal. It  
14 was always something I wanted to do, but not always able  
01:34 15 to do what they may have requested me to do.

16 BY MR. MEER:

17 Q Well, even though they may have requested you to  
18 show up earlier, you were never disciplined or demoted or  
19 had your pay cut or in any way counseled about the time  
01:35 20 that you arrived at the office, right?

21 MR. BLACK: Objection. Asked and answered.

22 Misstates prior testimony.

23 THE WITNESS: No.

24 BY MR. MEER:

01:35 25 Q You never received any of that discipline or

1           counseling?

2           A    No. No, I didn't.

3           Q    And so looking at -- and we won't go through all  
4           of these records. But looking at, for instance -- let's  
01:35 5       go to a time after your training ended. So let's look at  
6       April 27, 2009, and I'll give you the page number on  
7       that. It should be page 55 of 77.

8           A    Okay. Okay.

9           Q    So on April 27th, for instance, you arrived  
01:36 10      about two and a half minutes early, correct?

11          A    Yes. That's correct.

12          Q    And then going to the next day, April 28, 2009,  
13       you arrived almost a minute after your shift had started.

14          A    Mm-hmm.

01:36 15       MR. BLACK: Objection. Vague and ambiguous as  
16       to "arrive."

17       BY MR. MEER:

18          Q    Correct?

19          A    Yes.

01:36 20       Q    And then looking at the next day after that,  
21       April 29, 2009, you arrived at work about four and a half  
22       minutes before your shift started, correct?

23          A    Yes. That's correct.

24          Q    And then looking at the next day, April 30,  
01:37 25       2009, it has your first access at 10:43:37 a.m.

Exhibit A, Page 25

1 I was working there yesterday. I would have a much  
2 more -- it would be clear in my memory. But I can't tell  
3 you about something from like almost a year and a half  
4 ago.

01:52 5 BY MR. MEER:

6 Q Is there any day where you can remember  
7 specifically what time you stopped working?

8 MR. BLACK: I'm going to object to that as to  
9 specifically -- Counsel, are you asking her to --

01:53 10 specifically, or are you asking her to estimate? Do you  
11 want to clarify your question?

12 BY MR. MEER:

13 Q Please answer.

14 MR. BLACK: Do you understand the question?

01:53 15 THE WITNESS: I'm sorry. Can you repeat it  
16 again?

17 BY MR. MEER:

18 Q When I use the word "specifically," I mean  
19 specifically. So is there any day specifically when you  
01:53 20 can remember the time you stopped working?

21 MR. BLACK: Again, objection. Vague and  
22 ambiguous as to whether "specifically" is being used or  
23 referring to a specific day or a specific time on any  
24 day.

01:53 25 THE WITNESS: No. I cannot tell you for a

Exhibit A, Page 26

1       specific day, no.

2       BY MR. MEER:

3           Q    Can you tell me looking at all of these records,  
4       if we were to go through day by day showing the time that  
01:53 5       you logged out of the telephone queue, can you tell me  
6       whether those times are accurate or inaccurate for any  
7       given day?

8           MR. BLACK: Objection. Vague and ambiguous as  
9       to "accurate" as to what. The question is  
01:54 10      unintelligible.

11           THE WITNESS: I would say no.

12       BY MR. MEER:

13           Q    So the only thing we have to go on regarding the  
14       time you stopped work is your own memory, but your own  
01:54 15       memory doesn't allow you to recall the times you stopped  
16       working on any particular day; is that right?

17           MR. BLACK: Objection. That misstates prior  
18       testimony. All you asked this witness is whether she  
19       remembers specific days. You never asked her to estimate  
01:54 20       generally.

21           THE WITNESS: It wasn't something that I saw  
22       that I needed to keep my own personal records of. So --  
23       so no. I -- what you're asking -- I just can't give you  
24       the answer that you're wanting to hear.

01:55 25       BY MR. MEER:

Exhibit A, Page 27

1                   THE VIDEOGRAPHER: The time is 2:38 p.m. and  
2 we're off the record.

3                   (Recess.)

4                   THE VIDEOGRAPHER: The time is 2:46 p.m. and  
02:46 5 we're back on the record.

6 BY MR. MEER:

7                   Q Before we took our break, I gave you a copy of  
8 Exhibit 5 which is the daily production log. Have you  
9 had a chance to take a look at that?

02:47 10          A No, I haven't.

11                  Q Taking a brief look at this Exhibit 5 -- it's  
12 13 pages long -- is this a true and correct copy of the  
13 daily production logs that you completed while at  
14 Prudential?

02:47 15          A Let me go ahead and look at it. Is this only  
16 for me?

17                  Q Yes.

18                  A It is, okay. Would you just be able to, I  
19 guess, explain maybe each of the columns to me so I could  
02:48 20 just make sure I'm understanding this clearly?

21                  Q Sure. This is a daily production report which  
22 is for your work beginning on January 2nd, 2009.

23                  A Mm-hmm.

24                  Q And there are different types of production --

02:48 25          A Yes.

Exhibit A, Page 28

1           Q    -- different types of work done. There's  
2           claims, there's telephone --

3           A    Yes.

02:48 4           Q    -- and then there's correspondence and there's  
5           also nonproductive time, vacations, PTO time, time spent  
6           in meetings. And there is a sum of production minutes  
7           for each of these activities.

8           A    Okay.

02:49 9           Q    The 420 minutes -- if you divide 420 by 60, 60  
10          minutes per hour, that comes out to be 420 minutes for  
11          seven hours.

12          A    Okay.

13          Q    So, for instance, on January 2nd, 2009, it  
14          indicated that you were doing claims production --

02:49 15       A    Mm-hmm.

16        Q    -- or claims work for seven hours --

17        A    Mm-hmm.

18        Q    -- that you completed three claims --

19        A    Mm-hmm.

02:49 20       Q    -- and that the percent of target is 19 percent.

21        A    Mm-hmm.

22        Q    Do you see that?

23        A    Yes. Yes, that helps.

24        Q    So then looking at this, let's look at the next  
02:49 25          day, January 5.

Exhibit A, Page 29

1 A Yes. February 12, okay.

2 Q -- there's an entry for Team 800 Number Phone  
3 Production. Do you see that?

4 A Yes.

02:51 5 Q And that indicates that time that you were  
6 assigned to the telephones?

7 MR. BLACK: Objection. Lacks foundation.

8 Document speaks for itself. Assumes facts not in  
9 evidence.

02:52 10 BY MR. MEER:

11 Q Is that what that indicates to you, Ms. Osborne?

12 A Well, let me go ahead and look at this page  
13 because it does look different than the other one. Okay,  
14 yeah, this does look more familiar for the things we used  
02:52 15 to have to login to access, but this wasn't to logging  
16 time records but strictly for production records.

17 Q Well, it also included non-production time such  
18 as training time, correct?

19 MR. BLACK: Objection. Vague and ambiguous as  
02:53 20 to "it."

21 THE WITNESS: Training was still tied in to  
22 production time. It's just we may not have completed  
23 claims or what have you.

24 BY MR. MEER:

02:53 25 Q Okay. These daily production reports were your

Exhibit A, Page 30

1 requirement to log all work-related activities?

2 A Yes. That's correct.

3 Q And just so that we're using the same codes,  
4 when there's an entry for Team 800 Number Phone  
02:53 5 Production, that was the entry that you made for time  
6 spent handling phone calls, right?

7 A Yes. That's correct.

8 Q And where there's an entry for batched mail  
9 production, that would be time spent handling  
02:54 10 correspondence, right?

11 A Yes. That's correct.

12 Q And then there's a claims production entry that  
13 would be time spent handling claims, right?

14 A Yes. That's right.

02:54 15 Q And then team training -- that would be either  
16 one-on-one coaching or a meeting with other colleagues,  
17 correct?

18 A Yes. That's correct.

19 Q Okay. And so looking at all of these dates, you  
02:54 20 filled in the amount of time spent on each of these  
21 different work-related activities per day, correct?

22 MR. BLACK: Objection. Document speaks for  
23 itself. Lacks foundation as to what the document even  
24 is.

02:54 25 THE WITNESS: Yes. That's correct.

Exhibit A, Page 31

1 BY MR. MEER:

2 Q And looking at this document, I know you said  
3 earlier that you tried to be as accurate as possible and  
4 that with human error no one could be accurate to every  
02:55 5 minute every day. But as you look at this report, this  
6 appears to be an accurate entry of the amount of time you  
7 spent on the various work activities on each of the days  
8 listed, right?

9 MR. BLACK: Objection. Misstates prior  
02:55 10 testimony. It's compound and unintelligible.

11 THE WITNESS: I mean, it's never 100 percent  
12 accurate considering it could be sometimes time-consuming  
13 to just even be able to write down all of this  
14 information and add up the minutes, and then if they  
02:55 15 didn't add up to try to remember and figure out what you  
16 did the previous day or couple of days or what have you.  
17 So -- but -- and this was something that we entered into  
18 the access system. But it's just -- I would say if it  
19 was based on a percentage, maybe about 70 percent  
02:56 20 accurate.

21 BY MR. MEER:

22 Q This is the most accurate record that you're  
23 aware of showing the amount of time you spent during the  
24 day on different work activities, right?

02:56 25 MR. BLACK: Objection. Misstates prior

Exhibit A, Page 32

1       testimony. It's leading. It's intentionally misleading.  
2       And it's confusing and it assumes facts not in evidence.  
3       Sorry.

4                     THE WITNESS: I would say it would probably be  
02:56 5             the closest thing to something being accurate as regards  
6             to some type of record kept for what we did for  
7             production throughout the day.

8       BY MR. MEER:

9                     Q     There's nothing that you can think of that would  
02:56 10           make this more accurate, right? It's as accurate as you  
11           could possibly make it?

12                  MR. BLACK: Objection.

13                  BY MR. MEER:

14                  Q     Right?

02:56 15           MR. BLACK: Objection. Vague and ambiguous.  
16                  It's confusing. It's misleading. The document speaks  
17           for itself. Misstates prior testimony.

18                  THE WITNESS: It just seemed like a really --  
19                  like I guess like an old-fashioned type of system. I  
02:57 20           mean, something -- I mean, I've never used before. It  
21                  was just a very unique, old-fashioned thing, writing down  
22           what you did throughout the day and trying to calculate  
23           the minutes. But I can't -- I know one thing for sure.  
24                  It's never concrete and 100 percent accurate, but you --  
02:57 25           it would give you a much better idea of what you did

Exhibit A, Page 33

1 respond to my attempting to clarify the record.

2 THE WITNESS: Yes. Yes. I understand that he's  
3 talking about electronically to put it in the system  
4 access.

02:58 5 MR. BLACK: Okay.

6 BY MR. MEER:

7 Q So if we were to find this handwritten journal,  
8 the handwritten journal to your memory would include the  
9 same amount of minutes that you entered electronically,  
02:59 10 correct?

11 A I would say yes. Sometimes I had questions on  
12 them myself because you could go a day or two, just get  
13 caught up with doing -- doing your work and stuff because  
14 this -- unfortunately with doing these reports, it  
02:59 15 affected your time to process -- process claims and what  
16 have you and other things that we were required to work  
17 on. But this is the close -- the thing that comes the  
18 closest to doing it and sometimes, you know, you can do  
19 it every day or sometimes some people would do them  
02:59 20 weekly and just copy and enter it into the system. Me  
21 personally, I try to do it -- do it every -- every day or  
22 at least every other day.

23 Q The Prudential policy was to do it every day,  
24 correct?

03:00 25 A Yes. That's correct.

Exhibit A, Page 34

1           Q    And there is no other set of records that you're  
2   aware of that would have a more accurate representation  
3   of the amount of time you spent on these various daily  
4   activities, right?

03:00 5           A    No, not that I know of.

6           Q    And there is nothing in your memory that  
7   indicates after reviewing this Exhibit 5 that the amount  
8   of time entered is incorrect for any particular day?

9                 MR. BLACK: Objection. The document lacks  
03:00 10          foundation. It's vague and ambiguous.

11                 THE WITNESS: I'm sorry. Can you repeat the  
12          question again?

13          BY MR. MEER:

14           Q    Sure. As you look at this document and it's got  
03:01 15          an amount of time listed for every day, there aren't any  
16          days that indicate to you "I know that doesn't seem  
17          right, it says that I spent 62 minutes, an hour and  
18          two minutes doing claims production on February 13th, and  
19          I -- I recall that I must have spent nine hours doing  
03:01 20          claims production that day." There's nothing about these  
21          entries on Exhibit 5 that indicate to you it being  
22          inaccuracy, right?

23                 MR. BLACK: Objection. The question is  
24          compound. There's at least three questions in there.

03:01 25                 THE WITNESS: Not that I know of.

Exhibit A, Page 35

1 right?

2 MR. BLACK: Objection. Documents speaks for  
3 themselves. The program speaks for itself. And it  
4 misstates prior testimony. It is intentionally  
03:08 5 misleading.

6 THE WITNESS: These reports were mainly just to  
7 list the production of the work that was done for the  
8 day.

9 BY MR. MEER:

03:08 10 Q Well, and they were also to list the amount of  
11 time spent on each item so that the person's productivity  
12 could be measured against what was actually produced that  
13 day, correct?

14 MR. BLACK: Objection. It's leading. I'm not  
03:08 15 even sure if that's a question.

16 BY MR. MEER:

17 Q Go ahead and answer.

18 A Yes. That's correct.

19 Q And so the amount of time actually spent on a  
03:09 20 particular task was important to be recorded accurately  
21 so that somebody's productivity could be assessed  
22 accurately, right?

23 A Yes. That's the way they measured it there, so  
24 yes.

03:09 25 Q And so this wasn't a system where someone was

Exhibit A, Page 36

1 just supposed to routinely record seven hours a day, they  
2 were supposed to record the actual amount of time spent,  
3 right?

4 MR. BLACK: Objection. Vague and ambiguous as  
03:09 5 to "time spent." Asked and answered and misstates prior  
6 testimony.

7 THE WITNESS: Yes. That's correct.

8 BY MR. MEER:

9 Q And when you look at all of these dates on the  
03:09 10 daily production report, are there any dates where you  
11 can remember spending more time than the amount recorded  
12 on the daily production report?

13 A No.

14 MR. BLACK: Objection -- I'm sorry. Objection.  
03:09 15 Vague and ambiguous as to spent time. And vague and  
16 ambiguous in general.

17 THE WITNESS: No. I wouldn't be able to go  
18 ahead and say on a specific date what I was doing and  
19 what have you that sticks out in my mind.

03:10 20 BY MR. MEER:

21 Q On the dates when you were working beyond the  
22 seven hours of time recorded on the production report,  
23 what is the highest amount of time you worked without  
24 recording it?

03:10 25 MR. BLACK: Objection. Vague and ambiguous as

Exhibit A, Page 37

1 BY MR. MEER:

2 Q And so if in a worst case scenario you were  
3 required to work an extra 20 minutes per day without  
4 getting compensated for it in any way, that would be  
03:14 5 100 minutes per week, right?

6 MR. BLACK: Objection.

7 BY MR. MEER:

8 Q 20 times 5.

9 MR. BLACK: Objection. It's compound. It's a  
03:14 10 rambling question. It's unintelligible. It's unclear  
11 whether counsel is asking whether the minutes are  
12 included from the morning and the afternoon.

13 BY MR. MEER:

14 Q Go ahead and answer.

03:15 15 A Okay. Well, it wouldn't be every day, but I  
16 mean that I stayed, I mean, 15, 20 minutes later. But, I  
17 mean, on average, I left anywhere from 4:07 to 4:15 each  
18 day.

19 Q And so on staying late, if we took the worst  
03:15 20 case scenario -- the time when you worked the most and  
21 were compensated the least -- it would be 15 minutes  
22 five days a week, right?

23 MR. BLACK: Objection. Vague and ambiguous and  
24 unintelligible.

03:15 25 Only answer if you understand the question.

Exhibit A, Page 38

1                   THE WITNESS: I can't answer that.

2 BY MR. MEER:

3 Q Okay. Let me break it down.

4 A Okay.

03:15 5 Q Your lawsuit is for time that you say you worked  
6 when you weren't paid. And so my question -- and it's  
7 not meant to be tricky and it's not meant to be complex.  
8 I'm trying to figure out how much time you worked without  
9 being paid. So I want to try and ask that on a daily  
03:16 10 basis or a weekly basis.

11                  So on the worst day you worked 20 minutes of  
12 time without being paid, right?

13                  MR. BLACK: I'm going to object. It's vague and  
14 ambiguous as to how that 20 minutes is calculated. If  
03:16 15 you can just clarify for the record.

16 BY MR. MEER:

17 Q Using a watch that has a minute hand and a  
18 second hand calculating the amount of time on that watch  
19 that is accurate and it's a watch you own, how much extra  
03:16 20 time did you work on the worst day?

21 A On the worst day? I would say it could be up to  
22 like 13, 15 minutes.

23 Q Okay. And if this was the worst case scenario  
24 week -- let's say 15 minutes of extra time worked each  
03:17 25 day without being paid -- that would be 15 minutes times

Exhibit A, Page 39

1       five days a week, right?

2       A    Yes.

3       Q    You never had to work weekends, right?

4       A    No, I didn't have to work weekends.

03:17 5       Q    You were always on a five-day week?

6       A    Yes. That's correct.

7       Q    So 15 minutes extra per day times five days a  
8       week would be one hour and a half, right?

9       A    Yes.

03:17 10      Q    No.

11      A    An hour and a half, 15 minutes?

12      Q    Monday, 15 minutes; Tuesday --

13      A    An hour.

14      Q    -- 30 minutes; Wednesday, 45 minutes; Thursday,  
03:17 15      1 hour; Friday, 1 hour and 15 minutes.

16      A    Okay.

17      Q    It is a complex question, I guess. So you were  
18      working the worst amount of uncompensated time every day  
19      of the workweek, that would be 15 minutes per day or

03:18 20      1 hour and 15 minutes per week, right?

21      A    Yes, roughly about that.

22      Q    Okay. And your rate of compensation per hour  
23      was \$19.87, right?

24      A    Something -- I think it was like 19.50 or  
03:18 25      something, but you're close.

Exhibit A, Page 40

1 Q Let's say your rate of compensation was always  
2 at \$19 an hour or 19.50 per hour -- between those two,  
3 right?

4 A Yes.

03:18 5 Q And so that was your rate throughout your  
6 employment. It never went up, never went down?

7 A That's correct.

8 Q And on your paychecks, you got paid every two  
9 weeks, correct?

03:19 10 A Yes. That's correct.

11 Q And so you automatically got paid for 37 1/2  
12 hours per week, right?

13 A Yes.

14 Q And so if you had worked those extra 15 minutes  
03:19 15 five days instead of getting paid for 37 1/2 hours, it  
16 should be 38 hours and 45 minutes, right?

17 A I'm sorry. You're talking about the extra time  
18 added on --

19 Q Yes.

03:19 20 A -- that I stayed there?

21 MR. BLACK: I'm just going to object that the  
22 math is correct.

23 BY MR. MEER:

24 Q Well, we can -- let's do it the hard way. This  
03:19 25 is like why my mother would want me to go to medical

1 school instead of law school, but this is -- if there's  
2 37 1/2 hours per week, that's what you recall from your  
3 paychecks, right?

4 A Yes.

03:20 5 Q And we just did the math for 15 minutes times  
6 five days is an hour and 15 minutes.

7 A Yes.

8 Q Okay. So 37 1/2 -- we add the hour. That's 38.  
9 And then we add the extra 15 minutes. That makes it 38

03:20 10 hours and 45 minutes.

11 A Yes.

12 Q So instead of being paid 37 1/2 hours per week  
13 on the worst weeks when you were working the most time  
14 without being paid, you should have been paid 38 hours  
03:20 15 and 45 minutes per week?

16 A Yes. That's correct.

17 Q And your paychecks were every two weeks. So you  
18 got paid for 75 hours regularly every two weeks, right?

19 A That's right.

03:21 20 Q The 37 1/2 plus 37 1/2 is 75?

21 A Yes. That's correct.

22 MR. MEER: Let's mark as Exhibit 6 a document  
23 referred to as "Monthly Performance Reports."

24 (Deposition Exhibit 6 was marked for

03:21 25 identification by the court reporter.)

Exhibit A, Page 42

1       this is -- like my home computer, for example, that --  
2       what you're saying would definitely merit that. But with  
3       regards to at the office, at Prudential, I knew what  
4       systems were the fast ones and which ones were slow and  
04:02 5       it didn't really matter the order.

6 BY MR. MEER:

7       Q     Okay. The Lotus Notes system -- how long did  
8       that take to get up and running?

9       A     It didn't take that long once I figured out what  
04:03 10      the password was. It was one of those easy passwords  
11      like you could have synchronized with other passwords so  
12      it wasn't something that -- if I remembered it right  
13      away, then I could get in right away.

14      Q     Less than five seconds, less than ten seconds?

04:03 15      A     I would say probably like two minutes.

16      Q     And if you remembered the password, it would be  
17      less than two minutes?

18            MR. BLACK: Objection. Asked and answered.

19            THE WITNESS: I would say it could -- it would  
04:03 20      take -- I mean, that's with knowing the password. Up to  
21      two minutes for everything to load into the system.

22 BY MR. MEER:

23      Q     And the telephone queue -- how long did it take  
24      to load into that assuming no human error, that you  
04:04 25      remembered the password, that you were able to type at a

Exhibit A, Page 43

1 regular speed, all of that?

2 A It probably took about 15, 20 seconds. It  
3 didn't take that long.

4 Q And the ABC system -- how long did that take to  
04:04 5 logon to?

6 A Probably like a minute, minute and a half.

7 Q The CFE system -- how long did that take to  
8 logon to?

9 A That could take a little bit longer. It could  
04:04 10 take maybe about two to three minutes.

11 Q And the Pride system -- how long did that take  
12 to logon to?

13 A That could take some time. It could take  
14 five minutes, sometimes seven minutes. It took a long  
04:05 15 time.

16 Q And what percentage of the time in the morning  
17 did you have to logon to the Pride system?

18 A I would say probably maybe a good 30, 40  
19 percent.

04:05 20 Q So the majority of the time you didn't need to  
21 logon to the Pride system for the beginning of the shift?

22 A No. No.

23 Q And that statement is correct?

24 A Yes.

04:05 25 Q And so at the beginning of the shift, the

Exhibit A, Page 44

1 majority of the time you had to logon to Lotus Notes?

2 A I would say yes, I always logged in to Lotus  
3 Notes. That was just something, yes.

4 Q And the beginning of the shift, if you were on  
04:06 5 telephones, you had to logon to the telephone queue IP  
6 Agent?

7 A Yes. That's correct.

8 Q And the beginning of the shift, if you were on  
9 phones, what percentage of the time did you have to be  
04:06 10 logged on to the ABC system?

11 A 100 percent.

12 Q And the beginning of the shift, what percentage  
13 of the time did you have to logon to the CFE system if  
14 you were on the phones?

04:06 15 A 100 percent.

16 Q So on the dates when you had to begin your shift  
17 on telephones, the majority of the time it was Lotus  
18 Notes which could take up to two minutes, the telephone  
19 queue IP Agent which would take 15 or 20 seconds, the ABC  
04:06 20 system which could take a minute to a minute and a half,  
21 and the CFE system which could take two to three minutes;  
22 is that right?

23 A Yes. That's right, yes, to get all of these  
24 systems up, yes.

04:07 25 Q And you didn't have to wait for one program to

Exhibit A, Page 45

1 evidence.

2 THE WITNESS: No. I just don't ever personally  
3 remember getting on the computer and being able to have  
4 all my systems up in four minutes.

04:15 5 BY MR. MEER:

6 Q And so in order to be considered logged on by  
7 8:00 a.m., you might still be logging on to programs  
8 after 8:00 a.m., right?

9 MR. BLACK: Objection. Vague and ambiguous as  
04:16 10 to what "logged on" means.

11 THE WITNESS: Yes. That's correct.

12 BY MR. MEER:

13 Q And you were paid for that time because it was  
14 after 8:00 a.m., right?

04:16 15 A Yes. I was paid once -- at 8:00 a.m. at my  
16 original shift. I wasn't paid for the time prior to  
17 that.

18 Q So if you got into the office at 7:58 a.m. and  
19 you were up and running on Internet Explorer by 8:02  
04:16 20 a.m., then you were already being paid as of 8:00 a.m. to  
21 logon to the other programs, right?

22 MR. BLACK: Objection. The question is  
23 compound. Assumes facts not in evidence. It's vague and  
24 ambiguous.

04:16 25 THE WITNESS: I was just strictly paid from

Exhibit A, Page 46

1       8:00 a.m. I wasn't paid for coming in early to start my  
2       systems and get them running earlier.

3       BY MR. MEER:

4           Q     You never had an occasion that you can recall  
04:17 5       where all of your systems were up and running by  
6       8:00 a.m., right?

7           MR. BLACK: Objection. It's vague and ambiguous  
8       by all systems "up and running."

9           THE WITNESS: The only way that would be  
04:17 10      possible is if you forgot to turn your computer off the  
11       night before and your systems were all up the following  
12       day. You just turned it -- you turned -- you just -- I  
13       mean, you not even turn anything. You use the mouse and  
14       it came up and you put your password to login. That  
04:17 15      would be the only way realistically that would be up.  
16       But that was not what Prudential's policy was. They  
17       wanted us to go ahead and turn them off each night. But  
18       every now and then you might have where you thought you  
19       turned it off and you didn't and you just forgot or what  
04:18 20      have you.

21           Q     But if somebody was following the policy  
22       articulated at the call center where you worked, they  
23       could have logged on to just one of those systems by  
24       8:00 a.m. and then logon to the other systems after  
04:18 25       8:00 a.m., right?

Exhibit A, Page 47

1                   MR. BLACK: Objection. The question is vague  
2 and ambiguous. It's compound and it's intentionally  
3 misleading.

4                   THE WITNESS: Yes. That's true.

04:18 5           BY MR. MEER:

6                   Q And so if it took 15 to 20 seconds to logon to  
7 IP Agent, somebody could show up 15 to 20 seconds before  
8 8:00 and be up and running on IP Agent by 8:00, right?

9                   MR. BLACK: Objection. "Up and running" is  
04:18 10          vague and ambiguous and it misstates prior testimony.

11                  THE WITNESS: They could be logged in to the  
12 system earlier, but it doesn't necessarily mean they were  
13 getting phone calls.

14                  BY MR. MEER:

04:19 15          Q But if somebody needed to be logged on to any  
16 one of the programs at 8:00, they could -- since you  
17 mentioned that IP Agent, the telephone queue was the  
18 shortest -- 15 to 20 seconds -- if they arrived 30  
19 seconds before 8:00, then they could be logged on to the  
04:19 20          telephone queue by 8:00?

21                  MR. BLACK: Objection. The question assumes  
22 facts not in evidence. Lacks foundation. And it  
23 misstates prior testimony.

24                  THE WITNESS: I'm sorry. Could you repeat it  
04:19 25          again?

Exhibit A, Page 48

1 BY MR. MEER:

2 Q Sure. If the telephone queue took 15 to 20  
3 seconds to logon to, then if somebody arrived 30 seconds  
4 before 8:00 a.m., they could be logged on to the  
04:19 5 telephone queue at 8:00 a.m.?

6 A Yes.

7 MR. BLACK: Same objections.

8 THE WITNESS: Yes. They could be logged into  
9 the phone system, but you would still have to be, you  
04:20 10 know -- it still would definitely take time for you to  
11 login to your computer systems.

12 BY MR. MEER:

13 Q And you could login to those other computer  
14 systems after 8:00 a.m., right?

04:20 15 A Yes. You could go ahead and do that.

16 Q And you were counseled a few times for not  
17 turning off or not logging out of your computer in the  
18 evening, correct?

19 A Yes. That's correct.

04:20 20 Q Now, in order to avoid having telephone calls go  
21 beyond your shift, you could logout of the telephone  
22 queue before 4:00 p.m., correct?

23 A Well, normally, if you were on a phone call, I  
24 mean, it just -- it just really depends. I mean, if you  
04:20 25 had a phone call that was at 3:57, you knew realistically

1       that call was going to go over your shift. You had to  
2       take the phone call. You can't tell the participant "I  
3       have to leave in three minutes, I'll call you back the  
4       next day." You had to take the phone call even if it  
04:21 5       went past your shift. But we were still required to --  
6       to just stay on the phone until 4:00. I mean, I remember  
7       there were times where I was thinking I wasn't going to  
8       get a phone call past 4:00 and I did. I'm still  
9       through -- through the phone system and I still had to  
04:21 10      help the participant.

11           Q    But if you could logout of the systems in  
12       whatever sequence or order you wanted to -- if you wanted  
13       to avoid calls that went after 4:00, the first thing you  
14       would logout of would be IP Agent because once you're out  
04:21 15       of that you're out of the call queue, right?

16           MR. BLACK: Objection. Assumes facts not in  
17       evidence. Incomplete hypothetical. Calls for  
18       speculation and is misleading.

19           THE WITNESS: You could basically -- you  
04:22 20       wouldn't even necessarily have to logout. You can stay  
21       into -- I forget what it was called there. It might have  
22       been like "not ready" or "wrap up" or something like that  
23       to where you could still be in the system but where you  
24       block from not getting anymore phone calls while you're  
04:22 25       wrapping up your work.

1                   THE WITNESS: I would say -- it could have taken  
2 over five minutes. Because it seems like 4:07 was --  
3 always seemed like my target number to where I was just  
4 like okay, I've been here for seven minutes past my  
04:26 5 shift, I'm not getting paid and no one is really  
6 concerned about paying me for fighting with this  
7 computer. So I'm like -- I have to go because I would  
8 have to go pick up my children.

9 BY MR. MEER:

04:26 10 Q I'm just trying to get an amount of time.

11 A Yes.

12 Q I'll ask you about --

13 MR. BLACK: She's giving it to you.

14 BY MR. MEER:

04:26 15 Q So on the longest amount of time, it was seven  
16 minutes?

17 MR. BLACK: Objection. Misstates prior  
18 testimony. Lacks foundation and is misleading.

19 THE WITNESS: It was an average of seven  
04:26 20 minutes.

21 BY MR. MEER:

22 Q And on days when it didn't freeze and things  
23 logged out correctly, it could be done in less than two  
24 minutes?

04:26 25 MR. BLACK: Objection. Misstates prior

Exhibit A, Page 51

1 testimony.

2 THE WITNESS: I would say within three minutes.

3 BY MR. MEER:

4 Q These problems that you had logging out, they  
04:27 5 were specific to the computer assigned to you? It wasn't  
6 everyone at the call center, right?

7 A Yes. That's correct.

8 Q And so the other people around you were able to  
9 logon and logoff much quicker than you were?

04:27 10 MR. BLACK: Objection. Assumes facts not in  
11 evidence.

12 THE WITNESS: That I have no idea. I just know  
13 at the end of the day what my main focus was. I wasn't  
14 observing how everyone else was getting out of their  
04:27 15 computer. I just know I was having problems with mine  
16 and I addressed it to my supervisors multiple times and  
17 it just always seemed to be an ongoing issue.

18 BY MR. MEER:

19 Q You went to the gym sometimes with P.J., right?

04:27 20 A Yes.

21 Q And on those days, she was able to logout of her  
22 computer more quickly than you were, right?

23 A Well, I didn't ask her directly if she had  
24 problems logging out of her computer or what have you. I  
04:28 25 just know that it was just an ongoing frustration with my

1 something. I don't remember him saying "Okay, let's  
2 everybody -- let's go home." That I just --

3 Q On days where you were not on a call, you could  
4 start logging out at 3:50 p.m., right?

04:30 5 A Yeah. I mean, we still -- we had to go ahead  
6 and, you know, finish our work or, you know, pretty much  
7 just get any paperwork we had organized, put back in our  
8 desk or what have you, start logging out of your systems  
9 if we didn't have a phone call or whatever. But  
04:31 10 Prudential always made sure they could squeeze every  
11 minute out of you.

12 Q But you said there were some days when people  
13 from quality review asked you a question or some days  
14 when you got a late call just toward the end of the  
04:31 15 shift. But on the other days when you had no one asking  
16 you questions and no one on the phone, you could start  
17 logging out at ten minutes of 4:00, right?

18 MR. BLACK: Objection. Assumes facts not in  
19 evidence. Misstates prior testimony. Misleading and  
04:31 20 leading.

21 THE WITNESS: It was very rare. It would have  
22 been something I might have decided to do if I had an  
23 obligation to where I had an appointment where I needed  
24 to just be really leaving or to make sure I got out of  
04:32 25 there on time. But it definitely was not on a regular

1 BY MR. MEER:

2 Q This Exhibit 7 also discusses that your quality  
3 percentage was below acceptable. You were counseled  
4 about that, correct?

04:53 5 MR. BLACK: Objection. Vague as to time, date.

6 THE WITNESS: Yes. We were always -- it seemed  
7 like every single week was a week of being counseled  
8 about production.

9 BY MR. MEER:

04:53 10 Q Well, your production and your quality were the  
11 lowest of everyone at the call center, right?

12 MR. BLACK: Objection. Assumes facts not in  
13 evidence. Lacks foundation. It's argumentative.

14 THE WITNESS: That I -- that I have no idea on.

04:54 15 MR. MEER: Let's mark as Exhibit 8 copies of  
16 your pay stubs.

17 (Deposition Exhibit 8 was marked for  
18 identification by the court reporter.)

19 BY MR. MEER:

04:54 20 Q Have you seen these pay stubs prior to today?

21 A Yes.

22 Q And just to get an accurate pay rate on there,  
23 on page 2 of this, it indicates that you had a pay rate  
24 of \$19.48. Is that accurate?

04:55 25 A Yes. It looks like it's 48. It looks like 49

Exhibit A, Page 54

1       on one of them, but it's a penny.

2           Q   And when you were paid every two weeks, were you  
3       paid electronically or did you get a check?

4           A   I do remember the first check came in the mail  
04:55 5      and it was for paid -- I was paid for one week and then  
6       after that I started getting direct deposit  
7       electronically.

8           Q   And when you got direct deposit electronic  
9       payment, did you receive a copy of those pay stubs?

04:55 10          A   You would have -- well, for the first initial  
11       paycheck when I started, the one that was mailed to my  
12       home. It had a paycheck stub. But in the future, you  
13       would have to pretty much login to the system if you  
14       wanted to go and -- to review your paycheck stubs. So it  
04:56 15      wasn't necessarily something I did all the time,  
16       investigate because the pay was pretty much the same.

17           Q   But you knew how to login to the system at  
18       Prudential in order to pull up a copy of your electronic  
19       pay stub, correct?

04:56 20          A   Yes. That's correct.

21           Q   And what was the system called that you logged  
22       in to in order to see your pay?

23           A   I'm thinking -- I want to say it might have been  
24       Self Service.

04:56 25           MR. BLACK: Only answer if you know. Don't

Exhibit A, Page 55

1       would have to stay past my shift to make up the time. I  
2       never was -- never was I just given something for free in  
3       regards to saying oh, I come -- I'm a half an hour or  
4       hour late to work and pretend that I wasn't there. I had  
04:59 5       to make up that time.

6                   MR. BLACK: Dominique, just make sure you answer  
7       his questions specifically.

8                   BY MR. MEER:

9                   Q     On the dates when you were three minutes or five  
04:59 10       minutes or ten minutes late, you never told any  
11       supervisor or manager to adjust your time, right?

12                  MR. BLACK: Objection. Intentionally  
13       misleading. Lacks foundation. It's argumentative.  
14       Assumes facts not in evidence and is intended to  
05:00 15       intimidate the witness.

16                  THE WITNESS: No, I didn't ask anyone.

17                  BY MR. MEER:

18                  Q     So you got that extra time without having to  
19       make it up at some other point during the shift, right?

05:00 20           A     Those were --

21                  MR. BLACK: Objection. Vague and ambiguous as  
22       to "extra time." The whole question is vague and  
23       ambiguous and irrelevant.

24                  THE WITNESS: Those were not my intentions. My  
05:00 25       intentions was just to do my work and then be able to go

Exhibit A, Page 56

1 A Yes, I'm sure it did.

2 MR. BLACK: Dominique, you need to only answer  
3 if you know. Don't speculate, don't guess. Don't say  
4 "I'm sure it did." Did it or not? If you don't know,  
05:12 5 say you don't know.

6 THE WITNESS: I would say yes.

7 MR. MEER: Didn't work. Okay.

8 MR. BLACK: Do you understand what I'm asking?

9 THE WITNESS: Yes. I completely understand,  
05:13 10 yes.

11 MR. BLACK: All right.

12 THE WITNESS: Yes, they do.

13 BY MR. MEER:

14 Q And the Prudential electronic intranet system  
05:13 15 also had a section on payroll and overtime, correct?

16 A I'm sure it did. I didn't review it, though.

17 MR. BLACK: Dominique, look. This is very  
18 important.

19 THE WITNESS: Okay.

05:13 20 MR. BLACK: Do not guess to his questions. It  
21 does sound like the way you're answering the questions  
22 that you are guessing.

23 THE WITNESS: Okay. It's just been a really  
24 long time and so --

05:13 25 MR. BLACK: If you know, then you can answer the

Exhibit A, Page 57

1 Q That was not a guess. You are sure that there  
2 was a policy regarding payroll and timekeeping, right?

3 A Yes.

4 Q And there were also policies regarding non-  
05:14 5 discrimination and harassment and other HR issues, right?

6 A Yes.

7 Q And in connection with your performance  
8 evaluations, you reviewed the company intranet policies  
9 regarding performance standards, right?

05:14 10 A I mainly focused on the ones that we were  
11 required to do. Like we had one, for example, on like  
12 ethics where it asks you a little quiz at the end and  
13 things like that. I don't recall doing one for -- for  
14 payroll and overtime, something to review. That's  
05:15 15 probably -- would have been the time I would have taken  
16 the opportunity to review those in thorough detail.

17 Q Did you have an understanding -- and I'm not  
18 asking as a lawyer -- but did you have an understanding  
19 as an employee as to the difference between overtime pay  
05:15 20 and straight-time pay?

21 MR. BLACK: Objection. Calls for a legal  
22 conclusion.

23 THE WITNESS: I don't remember asking.

24 BY MR. MEER:

05:15 25 Q From just your knowledge of prior jobs, did you

Exhibit A, Page 58

1 have an understanding that someone could have a regular  
2 or straight-time pay rate and then an overtime pay rate?

3 MR. BLACK: Objection. Asked and answered.

4 Calls for a legal opinion.

05:15 5 THE WITNESS: I would say yes, but this job was  
6 completely different as regards to recording time  
7 considering we didn't do it ourselves. I always have had  
8 a place where I was able to take liberty of entering my  
9 own time.

05:16 10 BY MR. MEER:

11 Q And you understood -- again, not as a lawyer --  
12 but just from your prior experience that overtime applied  
13 to work over 40 hours a week, right?

14 MR. BLACK: Objection. Calls for a legal  
05:16 15 conclusion. Asked and answered.

16 THE WITNESS: Well, I know it can also be -- I  
17 believe in the state of California, even if you work over  
18 eight hours a day -- but since I didn't work over eight  
19 hours a day, I guess it was for unpaid time. But I  
05:16 20 didn't know how that worked and no one ever clarified  
21 that with me at Prudential.

22 BY MR. MEER:

23 Q But based on your understanding that overtime  
24 was over 40 hours a week, there were not weeks at  
05:17 25 Prudential when you worked over 40 hours, correct?

Exhibit A, Page 59

1                   MR. BLACK: Objection. Calls for a legal and  
2 expert opinion. Assumes facts not in evidence.  
3 Misstates prior testimony.

4                   THE WITNESS: No, I didn't work over 40 hours a  
05:17 5 week at Prudential.

6 BY MR. MEER:

7                   Q And you didn't work over eight hours a day at  
8 Prudential either, right?

9                   MR. BLACK: Objection. Vague and ambiguous as  
05:17 10 to work overtime at Prudential.

11                  THE WITNESS: The only way I would have stayed  
12 over eight hours is if I had to make up an hour and maybe  
13 at the end of the shift I might have got out of there,  
14 for example, at 5:07.

05:17 15 BY MR. MEER:

16                  Q Okay.

17                  A And so that happened on occasion.

18                  Q More than two or three times?

19                  A Gosh. I really can't answer. But I want to say  
05:18 20 more than two or three times.

21                  Q More than six times?

22                  A I couldn't put a number on it, but I want to say  
23 more than two or three. Maybe roughly around five, but  
24 that's not -- but that's only me guessing and we're  
05:18 25 talking about going a year to two years back.

Exhibit A, Page 60

1 with and they still didn't even want you to do that. It  
2 was just --

3 Q But you ultimately were successful when you had  
4 questions that couldn't be answered by people who called  
05:26 5 the call center or questions about how to handle claims?  
6 You were able to navigate through Prudential in order to  
7 find somebody who could help you, right?

8 MR. BLACK: Objection. Irrelevant.

9 THE WITNESS: I could, but it wasn't enjoyable  
05:27 10 sometimes.

11 BY MR. MEER:

12 Q Okay. I'll stipulate that I've taken 1,000  
13 depositions and I haven't yet heard a person say that  
14 their job was enjoyable or without stress. And so I -- I  
05:27 15 get that.

16 But you understood at Prudential that if you had  
17 wanted to try to navigate to find out who the appropriate  
18 person is for payroll issues or human resources issues,  
19 there were resources to find those people, right?

05:27 20 MR. BLACK: Objection. Asked and answered.

21 It's argumentative. Federal law controls.

22 THE WITNESS: It's just something to where I --  
23 I didn't want to be, I guess, going behind someone's back  
24 or questioning somebody's authority, considering  
05:27 25 everything that we were going through on a day-to-day

Exhibit A, Page 61

1 basis. So it was just something that I just -- I just  
2 left alone even though I saw that it wasn't right.

3 BY MR. MEER:

4 Q But you understood Prudential was a -- a multi-  
05:28 5 billion dollar Fortune 500 company, right?

6 A I never looked at it that way.

7 Q You thought of it as a big place, you had said  
8 that you worked at 21st Century Insurance, you knew  
9 Prudential was a big corporate employer, right?

05:28 10 A Yes, I knew that it was, but it was -- the way  
11 it was set up was completely different compared to me  
12 being at 21st Century. I mean, we had a doctor on-site  
13 if you got hurt. We had everything there versus at  
14 Prudential -- we didn't have those things.

05:28 15 Q Well -- but you didn't think that Charlene Frank  
16 was the only person in human resources at this enormous  
17 company who would be able to respond to questions about  
18 your pay or how to record time, right?

19 MR. BLACK: Objection. Compound.

05:29 20 THE WITNESS: I really didn't -- you know,  
21 really know, you know, as regards to her. It wasn't like  
22 I knew about her from day one. And that's normally when  
23 you're concerned about your pay and what have you. And I  
24 didn't learn about -- you get introduced to her, I say,  
05:29 25 maybe a few months down the line.

Exhibit A, Page 62

1 BY MR. MEER:

2 Q Well, either somebody said, "Ms. Osborne, you'll  
3 be able to earn incentive payments" or they didn't say  
4 it.

06:34 5 MR. BLACK: Same objections.

6 Only answer if you know. Don't speculate.

7 THE WITNESS: I really don't know.

8 BY MR. MEER:

9 Q As far as you understood, your productivity  
06:34 10 targets would not have any impact on your daily or weekly  
11 compensation, right?

12 MR. BLACK: Objection. Vague and ambiguous as  
13 to "daily or weekly targets." Vague and ambiguous as  
14 to -- strike that.

06:35 15 THE WITNESS: I'm sorry.

16 MR. BLACK: Answer if you can.

17 THE WITNESS: I'm sorry. Can you ask the  
18 question?

19 BY MR. MEER:

06:35 20 Q You were paid the same amount of money no matter  
21 how many calls you handled or how many claims you  
22 processed, right?

23 A Yes. Yes. That's correct.

24 Q Some call centers have an incentive program  
06:35 25 where they pay an employee per call. The employee gets a

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1 base wage and then maybe a dollar or a couple of dollars  
2 for each call that they complete. There wasn't any  
3 program like that in effect at Prudential to your  
4 knowledge, right?

06:35 5 MR. BLACK: Objection. Vague and ambiguous as  
6 to "incentive payments" as characterized by counsel.  
7 Vague as to time. Overbroad.

8 THE WITNESS: I don't know about anywhere else.  
9 I just know here in the Agoura Hills office that was not  
06:35 10 something offered to us.

11 BY MR. MEER:

12 Q Your pay, from what you were told, was not  
13 dependent on the number of calls you handled or the  
14 number of claims you handled, right?

06:36 15 A Yes. That's correct.

16 Q And as far as you know, there was no program in  
17 effect at Prudential to pay employees based on the number  
18 of calls they handled or the number of claims they  
19 handled, right?

06:36 20 A I'm sorry. Can you ask me that again?

21 Q There was no program at any facility that you're  
22 aware of that paid based on the number of calls handled  
23 or the number of claims handled, right?

24 A I can only answer for the office that I worked  
06:36 25 in. I don't know about the other offices. But no, we

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I, DOMINIQUE OSBORNE, do hereby declare under  
penalty of perjury that I have read the foregoing  
transcript; that I have made any corrections as appear  
noted, in ink, initialed by me; that my testimony as  
contained herein, as corrected, is true and correct.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_.  
(City) (State)

DOMINIQUE OSBORNE

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Exhibit A, Page 65

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3 I, the undersigned, a Certified Shorthand  
4 Reporter of the State of California, do hereby certify:

5 That the foregoing proceedings were taken before  
6 me at the time and place herein set forth; that any  
7 witnesses in the foregoing proceedings, prior to  
8 testifying, were duly sworn; that a record of the  
9 proceedings was made by me using machine shorthand which  
10 was thereafter transcribed under my direction; that the  
11 foregoing transcript is a true record of the testimony  
12 given.

13 Further, that if the foregoing pertains to the  
14 original transcript of a deposition in a Federal Case,  
15 before completion of the proceedings, review of the  
16 transcript [X] was [ ] was not required.

17 I further certify I am neither financially  
18 interested in the action nor a relative or employee of  
19 any attorney or party to this action.

20 IN WITNESS WHEREOF, I have this day subscribed  
21 my name.

22 Dated: July 8, 2010

23   
24 ANDREA M. RINKER  
CSR No. 13437



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